

REMARKS

I. Status of the Claims

Claims 1-20 are pending in this application. Claim 20 has been amended to correct antecedent basis. No new matter has been introduced by this amendment, nor does this amendment raise new issues or necessitate the undertaking of any additional search of the art by the Office.

II. Restriction Requirement

Applicant's claims 1-20 are subject to a restriction requirement under 35 U.S.C. § 121. (Office Action dated February 21, 2003, pages 2-3.) The Examiner has grouped the claims as follows:

Group I: claims 1-5 and 17-20, drawn to a product (member/container),
Group II: claims 9-16, drawn to product (filter), and
Group III: claims 6-8, drawn to process of making member.

Applicant respectfully traverses this requirement. However, to be fully responsive, Applicant elects, with traverse, the subject matter of Group I, claims 1-5 and 17-20, drawn to a product (member/container) for prosecution on the merits.

Contrary to what the Examiner alleges, it has not been shown that the subject matter of Group I and Group II are unrelated. "Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects." M.P.E.P. § 808.01. Here, although the Examiner alleges that the members/containers of Group I have different functions from the filters of Group II, the Examiner has failed to even allege that the members/containers of Group I and the filters of Group II are not disclosed as capable of use together. Applicant's specification, however, shows that the subject matter of

Group I and the subject matter of Group II are at least capable of use together. (See, for example, Specification, pages 16-19 and Figure 6.) Accordingly, restriction between Groups I and II is improper and the requirement should be withdrawn.

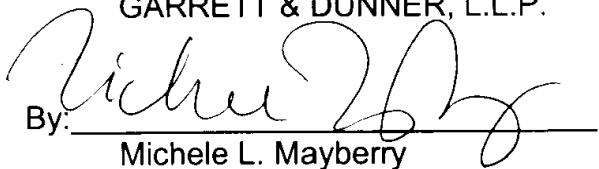
Additionally, a proper restriction requirement requires the Examiner to show that a *prima facie* case of a serious burden exists. M.P.E.P. § 803. The Examiner has attempted to show that a serious burden exists by showing that the products and processes of making have different classification. But “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” M.P.E.P. § 803. Applicants respectfully submit that examining the application in total would not present a serious burden to the Examiner. Applicants do not make any statement regarding the obviousness of one group relative to the other, nor should one be inferred. Applicants merely assert that the search of all the pending claims would not be unduly burdensome. Accordingly, the restriction requirement should be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By:


Michele L. Mayberry
Reg. No. 45,644

Dated: March 20, 2003

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

Appendix
(version with markings to show changes made)

IN THE CLAIMS:

20. (Amended) An antibacterial ~~filter~~ container according to claim 17, wherein said antibacterial member is constituted such that a solution in which a propolis component is extracted is formed by dissolving a water-insoluble propolis material in alcohol, acetone or ether, a water-insoluble base member is immersed in said formed propolis-extracted solution, said immersed base member is taken out from the propolis-extracted solution to be applied with a pressure, and said pressurized base member is dried.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com